

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 335 be amended to read as follows:

1 Page 2, between lines 7 and 8, begin a new paragraph and insert:
2 "SECTION 1. IC 6-8.1-3-21 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2008]: **Sec. 21. (a) This section applies after**
5 **December 31, 2008.**

6 **(b) The department shall cooperate with the:**
7 **(1) department of labor created by IC 22-1-1-1;**
8 **(2) worker's compensation board of Indiana created by**
9 **IC 22-3-1-1(a); and**
10 **(3) department of workforce development established by**
11 **IC 22-4.1-2-1;**
12 **by sharing information concerning any suspected misclassification**
13 **by a contractor (as defined in IC 22-2-14-5) of an employee as an**
14 **independent contractor.**

15 SECTION 2. IC 6-8.1-9-14, AS AMENDED BY P.L.103-2007,
16 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2008]: **Sec. 14. (a)** Except as provided in subsection (n), the
18 department shall establish, administer, and make available a
19 centralized debt collection program for use by state agencies to collect
20 delinquent accounts, charges, fees, loans, taxes, **civil penalties under**
21 **IC 22-2-14-13**, or other indebtedness owed to or being collected by
22 state agencies. The department's collection facilities shall be available
23 for use by other state agencies only when resources are available to the
24 department.

25 **(b)** The commissioner shall prescribe the appropriate form and
26 manner in which collection information is to be submitted to the
27 department.

28 **(c)** The debt must be delinquent and not subject to litigation,
29 claim, appeal, or review under the appropriate remedies of a state
30 agency.

31 **(d)** The department has the authority to collect for the state or
32 claimant agency (as defined in IC 6-8.1-9.5-1) delinquent accounts,

1 charges, fees, loans, taxes, or other indebtedness due the state or
2 claimant agency that has a formal agreement with the department for
3 central debt collection.

4 (e) The formal agreement must provide that the information
5 provided to the department be sufficient to establish the obligation in
6 court and to render the agreement as a legal judgment on behalf of the
7 state. After transferring a file for collection to the department for
8 collection, the claimant agency shall terminate all collection procedures
9 and be available to provide assistance to the department. Upon receipt
10 of a file for collection, the department shall comply with all applicable
11 state and federal laws governing collection of the debt.

12 (f) The department may use a claimant agency's statutory authority
13 to collect the claimant agency's delinquent accounts, charges, fees,
14 loans, taxes, or other indebtedness owed to the claimant agency.

15 (g) The department's right to credit against taxes due may not be
16 impaired by any right granted the department or other state agency
17 under this section.

18 (h) The department of state revenue may charge the claimant
19 agency a fee not to exceed fifteen percent (15%) of any funds the
20 department collects for a claimant agency. Notwithstanding any law
21 concerning delinquent accounts, charges, fees, loans, taxes, or other
22 indebtedness, the fifteen percent (15%) fee shall be added to the
23 amount due to the state or claimant agency when the collection is
24 made.

25 (i) Fees collected under subsection (h) shall be retained by the
26 department after the debt is collected for the claimant agency and are
27 appropriated to the department for use by the department in
28 administering this section.

29 (j) The department shall transfer any funds collected from a debtor
30 to the claimant agency within thirty (30) days after the end of the
31 month in which the funds were collected.

32 (k) When a claimant agency requests collection by the department,
33 the claimant agency shall provide the department with:

- 34 (1) the full name;
35 (2) the Social Security number or federal identification number,
36 or both;
37 (3) the last known mailing address; and
38 (4) additional information that the department may request;
39 concerning the debtor.

40 (l) The department shall establish a minimum amount that the
41 department will attempt to collect for the claimant agency.

42 (m) The commissioner shall report, not later than March 1 for the
43 previous calendar year, to the governor, the budget director, and the
44 legislative council concerning the implementation of the centralized
45 debt collection program, the number of debts, the dollar amounts of
46 debts collected, and an estimate of the future costs and benefits that
47 may be associated with the collection program. A report to the
48 legislative council under this subsection must be in an electronic
49 format under IC 5-14-6.

50 (n) The department may not assess a fee to a state agency or a
51 custodial parent for seeking a setoff to a state or federal income tax

refund for past due child support."

Page 3, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 3. IC 22-1-1-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 22. The department of labor shall cooperate with the:**

(1) department of workforce development established by IC 22-4.1-2-1;

(2) department of state revenue established by IC 6-8.1-2-1; and

(3) worker's compensation board of Indiana created by IC 22-3-1-1(a);

by sharing information concerning any suspected misclassification by a contractor (as defined in IC 22-2-14-5) of an employee as an independent contractor.

SECTION 4. IC 22-2-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 14. Employee Classification Act

Sec. 1. This chapter applies after December 31, 2008.

Sec. 2. This chapter is intended to address the practice of misclassifying employees as independent contractors.

Sec. 3. As used in this chapter, "agent of the contractor" means:

(1) an individual having management authority or enforcement powers with respect to a practice or policy of the contractor regarding the classification of an employee;

(2) a corporate officer; or

(3) a member of the board of directors;

of the contractor.

Sec. 4. As used in this chapter, "construction" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, airport facility, highway, roadway, street, bridge, alley, bridge, sewer, drain, ditch, sewage disposal plant, waterworks, parking facility, railroad, excavation, or other project, development, real property or improvement, or doing any part of these actions. It is immaterial whether or not the performance of the work described involves the addition of any material or article of merchandise to, or fabrication into, a structure, project, development, real property or improvement described in this section. The term includes moving construction related materials to or from the job site.

Sec. 5. As used in this chapter, "contractor" means any sole proprietor, partnership, firm, corporation, limited liability company, association, or other legal entity that engages in construction authorized by law to do business within Indiana. The term includes a general contractor, a subcontractor, and a lower

1 tiered contractor. The term does not include the state, the federal
2 government, or a political subdivision.

3 Sec. 6. As used in this chapter, "department" means the
4 department of labor created by IC 22-1-1-1. The term includes the
5 commissioner, employees of the department, and agents authorized
6 by the commissioner to act on behalf of the department.

7 Sec. 7. As used in this chapter, "interested party" means a
8 person with an interest in compliance with this chapter. The term
9 does not require that a person be aggrieved in order to be
10 considered an interested party.

11 Sec. 8. As used in this chapter, "political subdivision" has the
12 meaning set forth in IC 36-1-2-13.

13 Sec. 9. As used in this chapter, "performing services" means
14 performing construction services.

15 Sec. 10. As used in this chapter, "public work" includes any
16 public building, structure, airport facility, highway, roadway,
17 street, alley, bridge, sewer, drain, ditch, sewage disposal plant,
18 water works, parking facility, railroad, excavation, or other
19 project, development, real property, or improvement that is paid
20 for in whole or in part out of public funds or a special assessment.
21 The term also includes any public work leased by a political
22 subdivision under a lease containing an option to purchase.

23 Sec. 11. (a) An individual performing services for a contractor
24 is considered to be an employee of the contractor unless:

25 (1) the:

26 (A) individual has been and will continue to be free from
27 control or direction over the performance of the service
28 for the contractor, both under the individual's contract
29 of service and in fact;

30 (B) service performed by the individual is outside the
31 usual course of services performed by the contractor;
32 and

33 (C) individual is engaged in an independently
34 established trade, occupation, profession, or business;

35 (2) the individual is determined to be a legitimate sole
36 proprietor or partnership because:

37 (A) the sole proprietor or partnership is performing the
38 service free from the direction or control over the means
39 and manner of providing the service, subject only to the
40 right of the contractor, for whom the service is
41 provided, to specify the desired result;

42 (B) the sole proprietor or partnership is not subject to
43 cancellation or destruction upon severance of the
44 relationship with the contractor;

45 (C) the sole proprietor or partnership has a substantial
46 investment of capital in the sole proprietorship or
47 partnership beyond ordinary tools and equipment and
48 a personal vehicle;

49 (D) the sole proprietor or partnership owns the capital
50 goods, gains the profits, and bears the losses of the sole

- 1 **proprietorship or partnership;**
- 2 **(E) the sole proprietor or partnership makes its services**
- 3 **available to the general public or the business**
- 4 **community on a continuing basis;**
- 5 **(F) the sole proprietor or partnership includes services**
- 6 **rendered on a federal income tax schedule as an**
- 7 **independent business or profession;**
- 8 **(G) the sole proprietor or partnership performs services**
- 9 **for the contractor under the sole proprietor's or**
- 10 **partnership's name;**
- 11 **(H) the sole proprietor or partnership obtains and pays**
- 12 **for the license or permit in the sole proprietor's or**
- 13 **partnership's name when the services being provided**
- 14 **require a license or permit;**
- 15 **(I) the sole proprietor or partnership furnishes the tools**
- 16 **and equipment necessary to provide the service;**
- 17 **(J) if necessary, the sole proprietor or partnership hires**
- 18 **its own employees without contractor approval, pays the**
- 19 **employees without reimbursement from the contractor,**
- 20 **and reports the employees' income to the Internal**
- 21 **Revenue Service;**
- 22 **(K) the contractor does not represent the sole proprietor**
- 23 **or partnership as an employee of the contractor to its**
- 24 **customers; and**
- 25 **(L) the sole proprietor or partnership has the right to**
- 26 **choose to perform similar services for others on any**
- 27 **basis and at any time; or**
- 28 **(3) the individual is an owner-operator that provides a motor**
- 29 **vehicle and the services of a driver under a written contract**
- 30 **that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR**
- 31 **1057, to a motor carrier.**
- 32 **(b) A sole proprietor or partnership that is performing**
- 33 **services for a contractor as a subcontractor and does not meet the**
- 34 **requirements of subsection (a)(2) is considered an individual for**
- 35 **purposes of this chapter.**
- 36 **(c) In determining whether a contractor properly classifies an**
- 37 **individual as an employee, the department shall consider whether**
- 38 **the contractor does the following on behalf of the individual:**
- 39 **(1) Withholds, reports, and remits payroll taxes.**
- 40 **(2) Pays contributions to the unemployment insurance**
- 41 **benefit fund established by IC 22-4-26-1.**
- 42 **(3) Maintains worker's compensation insurance as required**
- 43 **by IC 22-3-5.**
- 44 **(4) Pays one and one-half (1 1/2) times the regular hourly**
- 45 **rate of wages for hours worked in excess of forty (40) hours**
- 46 **in a workweek.**
- 47 **(d) A contractor shall maintain records for a period of not less**
- 48 **than five (5) years for an individual performing services for the**
- 49 **contractor, regardless of whether the individual is classified as:**
- 50 **(1) an employee;**

(2) an independent contractor;

(3) a sole proprietor; or

(4) a partnership.

(e) Records to be maintained by the contractor must include all documents related to, or tending to establish the nature of, the relationship between the contractor and an individual performing services for the contractor. Records that must be maintained for an individual performing services for the contractor include, but are not limited to:

(1) the:

(A) name;

(B) address;

(C) phone number; and

(D) Social Security number or individual taxpayer identification number;

(2) the type of work performed and the total number of days and hours worked;

(3) the method, frequency, and basis on which wages were paid or payments were made;

(4) all invoices, billing statements, or other payment records, including the dates of payments, and any miscellaneous income paid or deductions made;

(5) copies of all contracts with the individual, agreements with the individual, applications for employment by the individual with the contractor, and policy or employment manuals of the employer for the period that the individual performed services for the contractor; and

(6) any federal and state tax documents or other information the department considers relevant or necessary.

Sec. 12. (a) It is a violation of section 11(a) of this chapter for a contractor or an agent of a contractor to fail to properly classify an individual as an employee unless the relationship between the individual and the contractor is excluded under section 11(a) of this chapter.

(b) A contractor is not liable under this chapter for the failure of a subcontractor or a lower tiered subcontractor to properly classify persons performing services as employees.

Sec. 13. (a) In addition to the criminal penalties set forth in section 14 of this chapter, a contractor or an agent of the contractor that violates this chapter is subject to a civil penalty not to exceed one thousand five hundred dollars (\$1,500) for each violation found by the first audit or investigation performed by the department. After a second or subsequent audit or investigation, a contractor or an agent of the contractor is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each repeat violation found by the department within a five (5) year period after the first violation. For purposes of this section, each violation of this chapter for each person and for each day the violation continues shall constitute a separate and distinct violation.

(b) The department shall consider the appropriateness of the amount of a penalty to the contractor or agent of the contractor charged upon the determination of the gravity of the violation.

(c) The department may assess up to twice the civil penalty under subsection (a) against a contractor or an agent of a contractor that:

(1) intentionally violates this chapter; or

(2) obstructs the department during an inspection of a place of employment during an investigation authorized under section 18(a) of this chapter concerning this chapter.

The amount of the penalty determined may be recovered, if necessary, in a civil action brought by the attorney general on behalf of the department. Any uncollected amount under this subsection or subsection (a) is subject to IC 6-8.1-9-14.

Sec. 14. (a) Except as provided in subsection (b), a contractor or an agent of the contractor that intentionally fails to properly classify an individual as an employee under section 11(a) of this chapter commits a Class C misdemeanor.

(b) A contractor or an agent of the contractor that intentionally fails to properly classify an individual as an employee under section 11(a) of this chapter for a second or subsequent violation within five (5) years after the commission of a prior violation commits a Class D felony.

Sec. 15. (a) The department shall post a summary of the requirements of this chapter on its official Internet web site.

(b) The department also shall maintain the list set forth in section 13(d) of this chapter concerning contractors that are barred from performing public works contracts.

Sec. 16. A contractor for which one (1) or more individuals perform services who are not classified as employees under section 11(a) of this chapter shall post and keep posted a notice, prepared by the department, summarizing the requirements of this chapter. The notice shall be posted in a conspicuous place on a job site where the individual performs services and in each of the offices of the contractor. The department shall furnish copies of summaries without charge to a contractor upon request.

Sec. 17. (a) An interested party may file a complaint with the department against a contractor or an agent of the contractor if the interested party has a reasonable belief that the contractor or the agent of the contractor is in violation of this chapter. The complaint shall be filed on a form to be supplied by the department and in a manner prescribed by the department. The department may not investigate a complaint for a violation alleged to have occurred before January 1, 2009.

(b) The department shall conduct an investigation to ascertain the facts relating to the violation alleged in the complaint and determine whether a violation under this chapter has occurred. The investigation may be made by written or oral inquiry, field visit, conference, or any method or combination of methods the department considers suitable. The following apply to the

investigation:

(1) If a contractor refuses to cooperate, the department may make a finding that there is a violation of this chapter.

(2) Complainants must provide the department with a notice of a change of address or telephone number or a prolonged absence from the current address so that the department can fully investigate the complaint. A complainant shall cooperate with the department, provide necessary information, and be available for interviews and conferences upon reasonable notice or request by the department. If a complainant cannot be located or does not respond to reasonable requests by the department, the department may dismiss the individual from the complaint.

(3) The department may investigate alleged violations not longer than three (3) years preceding the date the complaint was filed.

(4) Before making a final determination of a violation, the department shall notify the contractor of the substance of the department's investigation and afford the contractor an opportunity to present any written information within fifteen (15) calendar days for the department to consider in reaching its final determination.

(c) As part of its investigation, the department may convene a factfinding conference in person or by telephone to obtain additional information or evidence, identify the issues in dispute, ascertain the positions of the parties, and explore the possibility of settlement. The factfinding conference must be limited to those issues the department believes to be relevant. The following apply to the conference:

(1) Notice of the conference shall:

(A) be given to all parties at least ten (10) calendar days before the conference; and

(B) identify the individual requested to attend on behalf of each party.

(2) A party may be accompanied to a factfinding conference by:

(A) the party's attorney or other representative; and

(B) a translator if necessary.

(3) A departmental investigator shall conduct the conference and control the proceedings. No tape recording, stenographic report, or other verbatim record of the conference may be made. If an individual fails to cooperate at the conference and becomes so disruptive or abusive that a full and fair conference cannot be conducted, the departmental investigator shall exclude the individual from the conference.

(4) A complainant who fails to attend a factfinding conference may be dismissed from the complaint. If a contractor fails to attend a factfinding conference, the department may make a finding that there is a violation of this chapter.

Sec. 18. (a) The department:

- (1) may conduct investigations in connection with the administration and enforcement of this chapter;**
- (2) shall enforce the provisions of this chapter; and**
- (3) may hire investigators and other personnel necessary to carry out the purpose of this chapter.**

(b) An employee of the department has authority to visit and inspect, at all reasonable times, a worksite subject to the provisions of this chapter and has authority to inspect, at all reasonable times, documents related to the determination of whether an individual is an employee under section 11(a) of this chapter.

(c) The commissioner or a representative of the commissioner may:

- (1) compel, by subpoena, the attendance and testimony of witnesses and the production of books, payrolls, records, papers, and other evidence in an investigation; and**
- (2) administer oaths to witnesses.**

Sec. 19. (a) Whenever the department believes, after investigation, that a violation of this chapter has occurred, the department may:

- (1) issue and cause to be served on a person an order to cease and desist from further violation of the chapter;**
- (2) take affirmative or other action considered reasonable to eliminate the effect of the violation;**
- (3) collect the amount of wages, salary, employment benefits, or other compensation denied or lost to an individual; or**
- (4) assess a civil penalty allowed under section 13 of this chapter.**

A civil penalty assessed by the department and any other relief requested by the department is recoverable in an action brought by the attorney general.

(b) When it appears to the department that a contractor or an agent of the contractor has violated a valid order of the department issued under this chapter, the department may:

- (1) commence an action through the attorney general; and**
- (2) seek an order from the superior or circuit court in the county in which the contractor does business, mandating the contractor or the agent of the contractor to obey the order of the department.**

The failure of the contractor or the agent of the contractor to obey the order of the court is contempt of court.

(c) A contractor or an agent of a contractor that receives:

- (1) an order based on a violation;**
- (2) a civil penalty assessment;**
- (3) a cease and desist order; or**
- (4) any combination of subdivisions (1) through (3);**

from the department, may, within ten (10) working days after receipt, file a written petition for review with the department. The petition for review must contain a statement of the basis for the contest. The department shall mail a copy of the petition for review

to the complainant and to any interested party designated on the complaint. The contractor shall post a copy of the petition for review contemporaneously with the filing of the petition at or near the place where the alleged violation occurred, or if the contractor is no longer performing services at the place where the alleged violation occurred, at the contractor's principal place of business in a conspicuous place where labor notices regularly are posted. The contractor shall post a bond in an amount sufficient to pay wages, salary, employment benefits, or other compensation lost or denied to the individual as determined by the department and civil penalties assessed by the department. The department shall rule on the petition for review within thirty (30) calendar days after receipt. If the contractor or an agent of the contractor does not file a petition for review within the ten (10) working day period, the department's determination shall be final.

(d) After the second or subsequent violation determined by the department that occurs within five (5) years of an earlier violation, the department shall notify the contractor or the agent of the contractor of the determination and of the right of the contractor or agent of the contractor to seek a hearing on the determination, which must be requested in writing within ten (10) working days after the date of the notice and in accordance with IC 4-21.5-3-2. The failure to request a hearing within the ten (10) working day period will result in immediate placement and publication of the contractor's name on a list maintained on the Internet web site of the department as required under section 15(b) of this chapter. If the contractor or agent of the contractor requests a timely hearing, the commissioner shall set a hearing on the alleged violation. The hearing must take place not more than forty-five (45) calendar days after the receipt of the request for the hearing by the department. The hearing must be held in accordance with IC 4-21.5. If the department finds against the contractor or the agent of the contractor, the name of the contractor or the agent of the contractor shall be added to the list. A contract for a public work may not be awarded by the state or a political subdivision to:

- (1) a contractor whose name appears on the list; or
- (2) a firm, a corporation, a partnership, or an association in which the contractor has an interest;

until four (4) years have elapsed after the posting of the name on the list.

Sec. 20. (a) The employee classification fund is established to:

- (1) administer this chapter;
- (2) investigate contractors and agents of contractors; and
- (3) fund other expenses incurred in carrying out the duties of the department under this chapter.

The fund consists of civil penalties collected by the department under this chapter. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

1 (c) The treasurer of state shall invest the money in the fund not
2 currently needed to meet the obligations of the fund in the same
3 manner as other public money may be invested. The interest that
4 accrues from these investments shall be deposited in the fund.

5 (d) Money in the fund at the end of a state fiscal year does not
6 revert to the state general fund.

7 Sec. 21. (a) It is a violation of this chapter for a contractor or
8 an agent of a contractor to retaliate through discharge or in any
9 other manner against a person for exercising a right granted under
10 this chapter. Retaliation subjects a contractor or an agent of a
11 contractor to civil penalties under section 13 of this chapter or a
12 private cause of action, or both.

13 (b) It is a violation of this chapter for a contractor or an agent
14 of a contractor to retaliate against a person for:

15 (1) making a complaint to a contractor or an agent of a
16 contractor, to a coworker, to a community organization, to
17 a state or federal agency, or within a public hearing that
18 rights guaranteed under this chapter have been violated;

19 (2) causing a proceeding under or related to this chapter to
20 be instituted; or

21 (3) testifying or preparing to testify in an investigation or
22 proceeding under this chapter.

23 Sec. 22. (a) An interested party or a person aggrieved by a
24 contractor or an agent of a contractor for a violation of this
25 chapter may file suit in circuit court in the county where the
26 alleged offense occurred or where any person who is a party to the
27 action resides, without regard to exhaustion of any alternative
28 administrative remedies provided in this chapter. An action may
29 be brought by one (1) or more persons on behalf of the person and
30 other persons similarly situated. A person whose rights have been
31 violated under this chapter by a contractor or an agent of a
32 contractor is entitled to collect:

33 (1) the amount of any wages, salary, employment benefits, or
34 other compensation denied or lost to the person because of
35 the violation;

36 (2) any other compensatory damages and an amount up to
37 five hundred dollars (\$500) for each violation of this chapter;

38 (3) in the case of an intentional violation or obstruction of the
39 department during an inspection, punitive damages in an
40 amount equal to the civil penalties assessed under section
41 13(c) of this chapter;

42 (4) in the case of unlawful retaliation as set forth in section
43 21 of this chapter, all legal or equitable relief, or both, as
44 appropriate; and

45 (5) attorney's fees and costs.

46 (b) The right of an interested party or aggrieved person to
47 bring an action under this chapter terminates three (3) years after
48 the final date of performing services for the contractor by the
49 affected employee. The period of limitation is tolled if the
50 contractor or an agent of the contractor has deterred a person's

1 exercise of rights under this chapter.

2 Sec. 23. (a) A person may not waive any provision of this
3 chapter.

4 (b) A contractor or an agent of a contractor that recklessly,
5 knowingly, or intentionally attempts to induce an individual to
6 waive any provision of this chapter commits a Class C
7 misdemeanor.

8 Sec. 24. A finding made under this chapter:

9 (1) is for the purpose of enforcing this chapter; and

10 (2) is not admissible or binding against a party in another
11 proceeding.

12 Sec. 25. The department, the department of workforce
13 development established by IC 22-4.1-2-1, the department of state
14 revenue established by IC 6-8.1-2-1, and the worker's
15 compensation board of Indiana created by IC 22-3-1-1(a) shall
16 cooperate under this chapter by sharing information concerning
17 any suspected misclassification of an employee as an independent
18 contractor by a contractor or an agent of a contractor. Upon
19 determining that a contractor or an agent of a contractor has
20 classified an employee as an independent contractor in violation of
21 this chapter, the department shall notify the:

22 (1) department of workforce development, which shall check
23 the contractor's compliance with laws under IC 22-4 and
24 IC 22-4.1;

25 (2) the department of state revenue, which shall check the
26 contractor's compliance with laws under IC 6; and

27 (3) the worker's compensation board of Indiana, which shall
28 check the contractor's compliance with laws under IC 22-3.

29 SECTION 5. IC 22-3-1-5 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 2008]: Sec. 5. (a) This section applies after December 31, 2008.

32 (b) The worker's compensation board of Indiana shall
33 cooperate with the:

34 (1) department of state revenue established by IC 6-8.1-2-1;

35 (2) department of labor created by IC 22-1-1-1; and

36 (3) department of workforce development established by
37 IC 22-4.1-2-1;

38 by sharing information concerning any suspected misclassification
39 by a contractor (as defined in IC 22-2-14-5) of an employee as an
40 independent contractor.

41 SECTION 6. IC 22-4-18-8 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
43 1, 2008]: Sec. 8. (a) This section applies after December 31, 2008.

44 (b) The department of workforce development shall cooperate
45 with the:

46 (1) department of labor created by IC 22-1-1-1;

47 (2) department of state revenue established by IC 6-8.1-2-1;
48 and

49 (3) worker's compensation board of Indiana established by
50 IC 22-3-1-1(a);

1 **by sharing information concerning any suspected misclassification**
2 **by a contractor (as defined in IC 22-2-14-5) of an employee as an**
3 **independent contractor."**

4 Page 10, between lines 26 and 27, begin a new paragraph and
5 insert:

6 "SECTION 7. IC 34-11-2-13 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) This section applies**
9 **beginning January 1, 2009.**

10 **(b) An action brought by an interested party or aggrieved**
11 **person under IC 22-2-14 must be commenced not later than three**
12 **(3) years after the final date of performing services to the**
13 **contractor as provided in IC 22-2-14-22(b)."**

14 Renumber all SECTIONS consecutively.

(Reference is to SB335 as printed January 25, 2008.)

Senator WALKER